



DEPARTMENT OF LABOR

Employee Benefits Security Administration

29 CFR Part 2570

RIN 1210-AC05

Procedures Governing the Filing and Processing of Prohibited Transaction

Exemption Applications

AGENCY: Employee Benefits Security Administration, U.S. Department of Labor.

ACTION: Notice of Proposed Rulemaking; Extension of comment period.

SUMMARY: The Department of Labor (the Department) is extending the comment period for a proposed rule that would update, clarify, and supersede the Department's current regulation governing the filing and processing of applications for administrative exemptions from the prohibited transaction provisions of the Employee Retirement Income Security Act of 1974 (ERISA), the Internal Revenue Code of 1986 (the Code), and the Federal Employees' Retirement System Act of 1986 (FERSA). The Department published the proposed rule in the *Federal Register* on March 15, 2022, with a 30-day comment period that was scheduled to end on April 14, 2022. Since the proposed rule was published, the Department has received multiple requests from interested parties for the Department to provide additional time for them to develop and submit their comments on the proposal. In response to these requests, the Department is extending the comment period for an additional 45 days, through May 29, 2022.

DATES: Written comments and requests for a public hearing on the proposed rule must be submitted to the Department on or before May 29, 2022.

ADDRESSES: All written comments and requests for a hearing concerning the proposed rule should be sent to the Office of Exemption Determinations through the Federal eRulemaking Portal and identified by RIN 1210-AC05.

Federal eRulemaking Portal: www.regulations.gov at Docket ID number: EBSA-2022-0003.

See **SUPPLEMENTARY INFORMATION** below for additional information regarding comments.

FOR FURTHER INFORMATION CONTACT: Brian Shiker, telephone: (202) 693-8552, email: shiker.brian@dol.gov, Office of Exemption Determinations, Employee Benefits Security Administration, U.S. Department of Labor (this is not a toll-free number).

Customer Service Information: Individuals interested in obtaining information from the Department concerning ERISA and employee benefit plans may call the Employee Benefits Security Administration's Toll-Free Hotline, at 1-866-444-EBSA (3272) or visit the Department's website (www.dol.gov/ebsa).

SUPPLEMENTARY INFORMATION:

Comment Instructions

All comments and requests for a hearing must be received by the end of the comment period. Requests for a hearing must state the issues to be addressed and include a general description of the evidence to be presented at the hearing. Persons are encouraged to submit all comments electronically and not to follow such submission with paper copies. The comments and hearing requests will be available for public inspection in the Public Disclosure Room of the Employee Benefits Security Administration, U.S. Department of Labor, Room N-1513, 200 Constitution Avenue, NW, Washington, DC 20210; however, the Public Disclosure Room may be closed for all or a portion of the comment period due to circumstances surrounding the COVID-19 pandemic caused by the novel coronavirus. Comments and hearing requests will also be available to the public, without charge, online at www.regulations.gov, at Docket ID number: EBSA-2022-0003 and www.dol.gov/ebsa.

Warning: All comments received will be included in the public record without change and will be made available online at www.regulations.gov, including any personal information provided, unless the comment includes information claimed to be confidential or other information whose disclosure is restricted by statute. If you submit a comment, the Employee Benefits Security Administration (EBSA) recommends that you include your name and other contact information, but DO NOT submit information that you consider to be confidential, or otherwise protected (such as Social Security number or an unlisted phone number), or confidential business information that you do not want publicly disclosed. However, if EBSA cannot read your comment due to technical difficulties and cannot contact you for clarification, EBSA might not be able to consider your comment. Additionally, the www.regulations.gov website is an “anonymous access” system, which means EBSA will not know your identity or contact information unless you provide it. If you send an email directly to EBSA without going through www.regulations.gov, your email address will be automatically captured and included as part of the comment that is placed in the public record and made available on the Internet.

BACKGROUND

The Secretary of Labor is authorized to grant administrative exemptions from the prohibited transaction provisions of ERISA, the Code, and FERSA and to establish an exemption procedure to grant such exemptions. The Department’s exemption procedure regulation was first published in 1990 and most recently updated in 2011.¹

On March 15, 2022, the Department published a notice of proposed rulemaking in the *Federal Register* entitled: Procedures Governing the Filing and Processing of

¹ 29 CFR Part 2570.30 through 2570.52 (55 FR 32847 (Aug. 10, 1990) and 76 FR 6637 (Oct. 27, 2011)).

Prohibited Transaction Exemption Applications (the Proposed Rule).² The Proposed Rule would update, clarify, and supersede the Department's existing regulation governing the filing and processing of applications for administrative exemptions from the prohibited transaction provisions of ERISA, the Code, and FERSA.

The Proposed Rule contains a 30-day comment period, which was scheduled to expire on April 14, 2022. Since the publication of the Proposed Rule, the Department has received multiple letters from interested persons expressing concern that the proposal's 30-day comment period did not provide them with sufficient time to develop and submit their comments regarding the proposed substantive changes to the current exemption procedure regulation and requesting the Department to extend the comment period by at least 30 days.

After carefully considering the extension requests, the Department has decided that it is appropriate to extend the comment period in the context of this proposed regulation for an additional 45 days (from 30 to 75 total days) to provide interested parties with additional time to participate in this rulemaking process. The comment period, therefore, will close on May 29, 2022.

Signed at Washington, DC, this 6th day of April 2022.

Ali Khawar,
Acting Assistant Secretary,
Employee Benefits Security Administration,
U.S. Department of Labor.

² 87 FR 14722.

